

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

BRUCE EDWARD FERRIEL

PLAINTIFF

v.

Civil No. 06-5061

DR. NEIL MULLINS;
and NURSE SUE McDONALD;

DEFENDANTS

ORDER

On February 29, 2008, the plaintiff filed a motion for default (Doc. 55) against Corporal Powell and Lt. Paul Carter. He maintains both were key witnesses and failed to appear at the evidentiary hearing. Due to their not being present at the hearing, plaintiff maintains he could not present his entire case. He asks that these individuals be held in contempt of court and that a new hearing be scheduled.

At the evidentiary hearing, plaintiff was advised that Corporal Powell had been unexpectedly called out of the state of Arkansas because of the serious illness of a close family member and was unavailable. Plaintiff was given the opportunity to state what testimony he believed he would obtain from Corporal Powell. Plaintiff was also given the opportunity to ask further questions of Joshua Culotta in view of the unavailability of Corporal Powell. Plaintiff did not attempt to call Lt. Carter as a witness. The motion (Doc. 55) is denied.

IT IS SO ORDERED this 14th day of March 2008.

/s/ *J. Marschewski*

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE